

FEE
\$6
\$8
\$5
\$1
\$15

When recorded, mail to:

City Clerk
CITY OF COTTONWOOD
827 N. Main Street
Cottonwood, AZ 86326



B-4619 P-635
Page: 1 of 6
A 4261353

CONSENT OF CITY OF COTTONWOOD
ASSIGNMENT OF TENANT RIGHTS IN
LOTS 101 AND 102, COTTONWOOD AIRPARK

Once fully executed, this Consent is legally binding as of
August 27, 2008 (the "Effective Date").

BACKGROUND

The Ground Lease

A. The City of Cottonwood, formerly known as the Town of Cottonwood, an Arizona municipality, is the "Landlord" under a Ground Lease Agreement dated May 5, 1983 to encourage economic development of the Cottonwood Airport Industrial property and to further economic development within the City of Cottonwood.

B. Cottonwood Airpark L.C. ("CALC") is the successor-in-interest to Cottonwood Airpark I, L.C. as successor-in-interest to Cottonwood Airpark, Inc., which was originally named as "Tenant" under the Ground Lease Agreement.

C. The Ground Lease Agreement, as amended by the First Amendment dated November 30, 1983, the Second Amendment dated March 12, 1985, the Third Amendment dated August 21, 1985, the Fourth Amendment dated February 7, 1989, and the proposed Fifth Amendment dated January 1, 1993, which was never signed, the Sixth Amendment dated July 5, 1994, and the Seventh Amendment dated September 16, 1997, the Eighth Amendment, which was recorded December 22, 1998, the Ninth Amendment, recorded October 1, 2001, and the Tenth Amendment, recorded March 3, 2003. The Eleventh, Twelfth and Thirteenth Amendments were recorded July 20, 2005, the Fourteenth Amendment was recorded on January 20, 2006, and the Fifteenth Amendment was recorded on August 21, 2006. The Ground Lease Agreement and all Amendments are collectively referred to as the "Ground Lease".

D. A memorandum of the Ground Lease dated May 23, 1983 was recorded January 4, 1984 in Book 1597, pages 576-581 and thereafter corrected by an instrument recorded July 1, 1985 in Book 1734, pages 11-15 of the records of the Yavapai County Recorder (the "Memorandum of Ground Lease").

E. On July 1, 1998, CALC made a qualified assignment to S & S Verde Properties, L.L.P., an Arizona limited liability partnership, with Carl F. and Shirley A. Seitz, husband and wife, as the partners of some of the rights possessed by CALC under



its Ground Lease with the City of Cottonwood, i.e., to the two lots, 101 and 102 (except the south 31.98 feet of Lot 102). Recorded September 16, 1998 in Book 3601, page 974, of official records of Yavapai County.

F. On August 1, 2001, CALC made another Assignment to S & S Verde Properties, L.L.P., an Arizona limited liability partnership, with Carl F. and Shirley A. Seitz, as partners of some of the rights possessed by CALC under its Ground Lease with the City of Cottonwood, i.e., to Lot 103 and the south 23.98 feet of Lot 102, as recorded October 1, 2001 in Book 3867, page 214, official records of Yavapai County.

G. CALC was dissolved January 2, 2007.

H. The legal description of Lots 101 and 102, Cottonwood Airpark is currently in the process of being changed in a proposed Sixteenth Amendment to the Cottonwood Airpark, Inc. Ground Lease to be considered at the same council meeting as this Consent. Lots 101 and 102, Cottonwood Airpark, as set forth in the legal description and Map attached to the proposed Sixteenth Amendment are collectively referred to in this document as the "Lots".

I. As a result of the death of Carl Frederick Seitz, Jr., aka Jack Seitz, on January 30, 2007, and the probate of his Estate in Yavapai County Superior Court, Probate No. PB82007 0032, including the Instrument of Distribution recorded in Book 4530, Page 438, records of the Yavapai County Recorder on 8/10/07, 2007, Shirley Annette Seitz now holds all of the partners' interest in S & S Verde Properties, L.L.P. Under the provisions of A.R.S. § 29-1022, when a person holds all of the interests of the partnership, all of the partnership property vests in that person. Assignment of the "Lots" and Lot 103 from S & S Verde Properties, L.L.P. to Shirley Annette Seitz, including a Consent by the City, was originally recorded on September 28, 2007 in Book 4543, Pg. 549 of official records of Yavapai County and rerecorded on November 30, 2007 in Book 4558, Pg. 13 of official records of Yavapai County, to include an effective date.

J. Shirley Annette Seitz now wishes to make an assignment of all of her rights as Tenant under the Ground Lease Agreement for Lots 101 and 102 of Cottonwood Airpark to 101 AIRPARK, L.L.C, an Arizona limited liability company.

K. The Ground Lease requires the written consent of the City of Cottonwood to the assignment of Shirley Annette Seitz (TENANT) of her rights as Tenant under the Ground Lease to 101 AIRPARK, L.L.C. (ASSIGNEE). It appears that the best interests of the City will be served by permitting ASSIGNEE to construct new improvements on the Lots, thus increasing the development and tax base for the City of Cottonwood. Thus, the City of Cottonwood has indicated that it will grant its consent to this transaction by execution and delivery of this Consent, in consideration for and subject to the covenants and conditions recited below.

AGREEMENT

Now, therefore, for valuable consideration received, the City of Cottonwood agrees that:



1. Consent. The City of Cottonwood hereby consents to the Assignment by SHIRLEY ANNETTE SEITZ to ASSIGNEE of her rights to the Lots under the Ground Lease. Such consent to be effective upon execution of this instrument by ASSIGNEE.

2. Acceptance of Assignment and Promise to Perform. By its signature below, ASSIGNEE hereby accepts, reaffirms and agrees to faithfully perform all of SHIRLEY ANNETTE SEITZ's duties, obligations and undertakings with respect to the Lots.

3. Release. In exchange for ASSIGNEE'S faithful performance hereunder, and as of Effective Date of this Agreement, the City as Landlord under the Ground Lease, hereby:

3.1 Certifies that formal approval of the Assignment to ASSIGNEE is hereby granted by the City;

3.2 Acknowledges and agrees that SHIRLEY ANNETTE SEITZ has assigned her rights, duties and obligations to the Lots to ASSIGNEE, all as set forth in the "Assignment". Landlord agrees to look solely to ASSIGNEE for collection of all rents and other amounts arising from the Ground Lease for the Lots after the Effective Date of this Consent and releases SHIRLEY ANNETTE SEITZ (and her predecessors) as Tenant from all obligations or duties arising under the Ground Lease relative to the Lots;

3.3 Acknowledges receipt of all rent and other amounts owed by TENANT to Landlord under the Ground Lease with respect to the Lots as of the Effective Date;

3.4 Ratifies, affirms and confirms the validity of all other terms and conditions of the Ground Lease;

3.5 Confirms that, to Landlord's knowledge, there are no uncured defaults or breaches by TENANT under the Ground Lease;

3.6 Agrees that the "Rent" for the Lots is \$0.01 per square foot of area within the Lots, per year as set forth in Sections 4B.2 and 3 of the Ground Lease Agreement dated May 5, 1983;

3.7 Agrees that the property taxes for the Lots shall be separately assessed and paid by ASSIGNEE;

3.8 Agrees that the failure of ASSIGNEE to pay rent, to pay property taxes, or to otherwise fully comply with the terms of the Ground Lease shall be considered a default by ASSIGNEE only as to the Lots and shall not be considered a default by TENANT under the Ground Lease affecting any of the other rights of SHIRLEY ANNETTE SEITZ or affecting any other right of SHIRLEY ANNETTE SEITZ or affecting any other property leased by SHIRLEY ANNETTE SEITZ.



3.9 Agrees that in the event of a default by SHIRLEY ANNETTE SEITZ under the Ground Lease, Landlord will exercise its rights solely against SHIRLEY ANNETTE SEITZ and will not construe a default by SHIRLEY ANNETTE SEITZ as a default by ASSIGNEE so long as ASSIGNEE pays its rent and timely performs all other obligations as required under the Ground Lease, with respect to the Lots, any default by SHIRLEY ANNETTE SEITZ regarding her other obligations under the Ground Lease shall not be construed as a default by ASSIGNEE;

3.10 Acknowledges that ASSIGNEE intends to encumber its leasehold interest in the Lots to construct certain improvements, which may be subject to an encumbrance in favor of a Lender. Landlord agrees to provide notice to the Lender and to SHIRLEY ANNETTE SEITZ in the event of a default by ASSIGNEE under the Ground Lease pertaining to the Lots if requested by such Lender, and will execute a separate instrument to that effect if asked to do so.

3.11 Acknowledges that it shall look solely to ASSIGNEE for compliance with the insurance requirements of the Landlord under the Ground Lease with respect to the Lots;

3.12 Acknowledges that pursuant to Section 20 of the Ground Lease:

Landlord: City of Cottonwood
827 N. Main Street
Cottonwood, AZ 8636

101 Airpark, L.L.C., an Arizona limited liability company
1099 Pine Country Court
Prescott, AZ 86303

3.13 Affirms that the Term of the Lease to the Lots runs until December 31, 2033.

4. Ratification of Ground Lease with Respect to the Lots. The terms and conditions contained in the Ground Lease with respect to the Lots are hereby ratified, confirmed and continue in full force and effect. The Term Commencement date of December 1983 began a 25-year term as to certain portions of the Lease and a 50-year Term as to certain other portions. The Lease also granted options for renewal. The parties intend to ratify and affirm the length of the term and of all other rights and obligations under the Ground Lease with respect to the Lots. The parties represent that to the best of their knowledge and belief, there are no other amendments, modifications, supplements or other agreements or understandings with respect to the subject matter of this Consent (i.e., the Lots except for those identified herein). The City as Landlord further acknowledges (i) that SHIRLEY ANNETTE SEITZ as TENANT has paid all rent due with respect to the Lots, and (ii) that, to the City's knowledge, SHIRLEY ANNETTE SEITZ has fully performed all of her obligations and is in good standing under the Ground Lease with respect to the Lots.



5. Further Documentation. The City agrees in good faith to execute such further or additional documents as become necessary or appropriate to carry out the intent and purpose of this Consent.

6. Counterparts and Facsimiles. This Consent may be executed by facsimile or in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

This Consent is legally binding as of the Effective Date regardless of the actual date of signing, provided that it shall not take effect until it is fully executed by both the City and ASSIGNEE.

The undersigned Representatives of the City of Cottonwood hereby personally affirm and certify that there has been full compliance with all requirements for approval of the Assignment by the City and do further affirm and certify that this Consent is hereby approved, ratified and accepted by the City of Cottonwood.

Approved as to Form Only

Steve Horton, Esq.
Mangum, Wall, Stoops & Warden, P.L.L.C.
City Attorney

THE CITY OF COTTONWOOD

By
Diane Joens, Mayor

Date: 9-3-08

Attest:

By
Marianne Jimenez, City Clerk

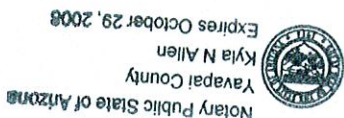
Date: 9-3-08

STATE OF ARIZONA)
) ss.
County of Yavapai)

On this, the 3rd day of September, 2008, before me, the undersigned Notary Public, personally appeared DIANE JOENS, the Mayor of the City of Cottonwood, who is personally known to me or satisfactorily proved herself to be the person who executed the foregoing Consent, acknowledges that she executed the same for the purposes therein contained, being authorized so to do.

Notary Public

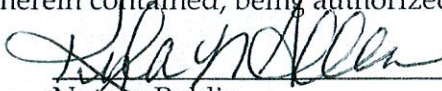
My Commission Expires: 10-29-08





STATE OF ARIZONA)
) ss.
County of Yavapai)

On this, the 3rd day of September, 2008, before me, the undersigned Notary Public, personally appeared MARIANNE JIMÉNEZ, the City Clerk of the City of Cottonwood, who is personally known to me or satisfactorily proved herself to be the person who executed the foregoing Consent, acknowledges that she executed the same for the purposes therein contained, being authorized so to do.



Notary Public


My Commission Expires:
10-29-08



Notary Public State of Arizona
Yavapai County
Kyla N Allen
Expires October 29, 2008

The undersigned ASSIGNEE hereby personally affirms and accepts the duties of ASSIGNEE as outlined above.

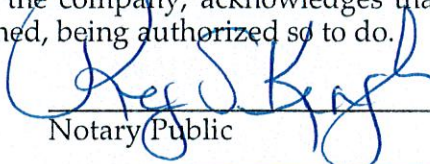
101 AIRPARK, L.L.C.

By: 

Richard Reimer, Managing Member

STATE OF ARIZONA)
) ss.
County of Yavapai)

On this, the 3rd day of September, 2008, before me, the undersigned Notary Public, personally appeared RICHARD REIMER, Managing Member of 101 AIRPARK, L.L.C., an Arizona limited liability company, who is personally known to me or satisfactorily proved himself to be the person who executed the foregoing Consent, on behalf of the company, acknowledges that he executed the same for the purposes therein contained, being authorized so to do.



Notary Public

My Commission Expires:
1-26-09



REGINA S. KINGTON
NOTARY PUBLIC - ARIZONA
YAVAPAI COUNTY
My Commission Expires
January 26, 2009